

Dallas A. Verble
Provence, Tiffany N v. United States of America, et al

February 9, 2022

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION
IN ADMIRALTY

TIFFANY N. PROVENCE, AS THE PERSONAL REPRESENTATIVE
OF THE ESTATE OF JUAN ANTONIO VILLALOBOS HERNANDEZ,

Plaintiff,

vs.

CASE NO. 2:21-cv-965-RMG

UNITED STATES OF AMERICA,
CROWLEY MARITIME CORPORATION,
CROWLEY GOVERNMENT SERVICES, INC.,
DETYENS SHIPYARD, INC. AND
HIGHTRAK STAFFING, INC. D/B/A
HITRAK STAFFING, INC.,
Defendants.

30(b)(6)

DEPOSITION OF: DETYENS SHIPYARD, INC.
BY: DALLAS A. VERBLE

DATE: February 9, 2022

TIME: 10:04 AM

LOCATION: Detyens Shipyards, Inc.
1670 Dry Dock Avenue, Suite 200
Building 236
North Charleston, SC

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: TERRI L. BRUSSEAU

1 A. Sure.

2 Q. Okay. All right. Particularly the
3 rigging. I'm going to start asking you questions
4 about the rigging. Have you gone back and looked
5 at how these davit arms were rigged?

6 A. Yeah, how they were wire rigged, yes,
7 sir.

8 Q. Okay. And are you aware of or have
9 some understanding of how the wire rope parted?

10 A. I have no idea why the wire rope
11 parted.

12 Q. But you're aware that happened?

13 A. I -- I know it failed, yes.

14 Q. Okay. And then tell me what you sort
15 of understand about how Mr. Hernandez was killed.

16 A. What I understand, I guess he climbed
17 up inside there and that arm fell and squished him.

18 Q. And do you know how that -- what caused
19 that arm to fall?

20 A. No, sir.

21 Q. All right. And then are you aware that
22 the davit arm was restrained and rigged into place
23 by some Detyens folks?

24 A. Yes, sir.

25 Q. And what do you know about that? How

1 did you find that out?

2 A. How did I find out that Detyens folks?

3 Q. Yeah.

4 A. Because we've always restrained the
5 davit arms.

6 Q. Okay. That's part of what the rigging
7 folks do at Detyens?

8 A. Yes, sir.

9 Q. Every ship that comes in?

10 A. Yes, sir.

11 Q. Now, when you looked at the contract
12 specifications for this job, was there any
13 specification for how to restrain the davit arms?

14 A. No, sir.

15 MR. GILSENAN: Object to the form.

16 BY MR. YOUNG:

17 Q. And you've looked for that, right,
18 reviewed the contract and there is no such
19 specification? Is that accurate?

20 A. There's no direction on how to rig.

21 Q. Okay. And so that being the case, how
22 did you -- the repairs to the davit arms were a
23 change order, weren't they?

24 A. Yeah. It's -- it's a mixture. You had
25 work to be done under the original item.

1 For example, let's just say I know that as the
2 ship's going to arrive, you know that you're going
3 to have to restrain the lifeboat davit arms because
4 of the contract specifications, right? Is that
5 true?

6 A. Yeah, my -- the shops know that, yes.

7 Q. Well, you as project manager know --

8 A. Yes.

9 Q. -- that's part of the job, right?

10 A. I do, yes.

11 Q. Okay. And then it sounds like because
12 of that, you would contact the rigging shop and
13 say, hey, guys, this portion of the contract, we
14 need to be ready to go when the ship shows up, is
15 that right, to restrain the davit arms?

16 A. I don't talk specifically about
17 restraining the davit arms. I talk about the
18 schedule, when we need to have the boat topped,
19 when the OEM will be here.

20 Q. Right.

21 A. Okay.

22 Q. Okay.

23 A. It's -- I'm trying to think. I tell my
24 son to go out and mow the grass, okay, he's mowed
25 it 15 times, I don't have to tell him to go back

1 and forth to make each pass every time I need you
2 to go out and mow the grass.

3 Q. Right.

4 A. I tell them I need to get the boat
5 topped and the davits ready, the OEM will be here
6 next week.

7 Q. I got you. And so then you're
8 depending on the guys at the rigging shop to use
9 their knowledge and experience on how to get that
10 done?

11 A. Yes.

12 Q. You know they're good at it?

13 A. Yes.

14 Q. And all I'm really trying to find out
15 here is if there'd be some record of, hey, we need
16 to order, you know, 300 feet of wire rope cable
17 because we're going to have to restrain these
18 things. And that would be sort of part of the
19 material that you're lining up in anticipation of
20 the, you know, efficient conduct of the contract so
21 when the ship shows up you don't have to --

22 A. I wouldn't know of any record that said
23 we need to order material. I mean, the material is
24 used for rigging all over the shipyard.

25 Q. Right.

1 LUMMUS was being worked on here?

2 A. No.

3 Q. No policy and no procedure for that?

4 A. No written policy.

5 Q. Okay. So what was the procedure in the
6 absence of that written policy?

7 A. It was standard marine practices that
8 we've been doing -- it's the way we've been
9 restraining the davits for years.

10 Q. Okay. And when you say standard marine
11 practice, can you describe that for us in more
12 detail? Pretend that somebody doesn't know
13 anything about it. How would you explain it to
14 them?

15 A. How I would restrain it?

16 Q. Yes, sir.

17 A. The davit is lifted up to the crane and
18 put in upper position and the cable is put on to
19 hold it in place.

20 Q. Okay. And the cable is -- how is it
21 attached to it or how is it fastened to the davit?

22 A. It has clamps on it to hold it.

23 Q. All right. Is it wrapped around?

24 A. Yes.

25 Q. And how many -- how do you know how

1 many times to wrap it around?

2 A. I can't answer that.

3 Q. That's something the rigging department
4 decided?

5 A. Yes.

6 Q. Okay. And if there was a contract
7 specification that told you exactly how to do it,
8 presumably Detyens would have followed that --

9 A. Yes, sir.

10 Q. -- is that true? And if there was a
11 product manual, technical manual provided by the
12 original equipment manufacturer, Detyens would want
13 to follow whatever their recommended procedures
14 were?

15 A. That's correct.

16 Q. All right. And in restraining the
17 lifeboat davit arms on the LUMMUS, is it true that
18 Detyens and nobody at Detyens looked to the
19 manufacturer's recommendations or specifications on
20 how to actually restrain the davit arm?

21 A. You're saying did nobody look?

22 Q. Yeah, do you know whether anybody
23 looked?

24 A. We had a -- an OEM technical rep there
25 overseeing all the work we were doing on the

1 davits.

2 Q. And who was that OEM technical rep?

3 A. PALFINGER.

4 Q. And do you remember the gentleman's
5 name? And we'll come to it in a minute.

6 A. I don't -- I don't remember off the top
7 of my head who was there at that time.

8 Q. Okay. Did you know the PALFINGER reps
9 over the years?

10 A. Yeah.

11 Q. Okay. And so help me understand that a
12 little bit. The PALFINGER rep, are you telling me
13 that he was involved in the manner and method in
14 which the davit arm for Number 6 was restrained?

15 A. He doesn't get involved with doing it,
16 but -- and he doesn't get involved to do it because
17 the riggers have the experience and the skill and
18 they've always done it.

19 Q. Okay.

20 A. But he's involved with overseeing the
21 whole job to make sure it gets done. He'll be up
22 there running the winches. And when we take the
23 cable off, you have to restrain it up before you
24 can take the cable off.

25 Q. I see. Okay. So there is no written

1 shop?

2 A. In this particular situation, they were
3 installed by the electric shop with a gun that uses
4 a 22 bullet to penetrate the stud into the metal.

5 Q. Okay. Let's look at Exhibit 3. This
6 is the lifeboat davit repair specification from
7 Crowley Government Services?

8 A. Yes, sir.

9 Q. And you testified that there is no
10 specific instruction on how the davit arms are to
11 be restrained, correct?

12 A. Yes, sir.

13 Q. Is that common in your experience?

14 A. Yes, sir, that's common.

15 Q. Okay. You did not -- when you reviewed
16 this spec in order to budget the labor and
17 materials for the job, did you find the
18 specification to be deficient because it did not
19 contain a specific instruction on how to restrain
20 the davit arms?

21 A. I did not.

22 Q. You did not. Okay. You mentioned that
23 the davit arms are restrained differently today by
24 welding the angle iron across the tracks for the
25 davit arms, correct?

1 A. That's correct.

2 Q. All right. And in the gravity davit
3 repairs that are ongoing today or since the
4 incident, is the means of restraint specified in
5 the repair specification by the customer?

6 A. The new specifications?

7 Q. When you get repair specs from
8 customers -- in other words, is that new method of
9 restraint --

10 A. No, sir.

11 Q. It's not in the specification?

12 A. Not that I'm aware of. I'm not working
13 a job right now where I have a davit job like that.
14 I have not seen one yet that specifies how to.

15 Q. Okay. And presumably you have worked
16 davit repair jobs or the shipyard has since this
17 incident occurred --

18 A. Yes, sir.

19 Q. -- on other ships?

20 A. Yes, sir.

21 Q. And did those specifications contain an
22 instruction on how to restrain the davit arm?

23 A. I don't recall any, no, sir.

24 Q. You don't recall that --

25 A. No, sir.

1 Q. -- existing?

2 A. No, sir.

3 Q. Okay. And do you expect the customer
4 to tell the shipyard how to restrain the davit arm?

5 A. I don't expect, no.

6 Q. Okay. And that's something that's
7 handled by the rigging shop?

8 A. Handled by the rigging shop and
9 customary, the standard way we've done it for all
10 along.

11 Q. Okay. Do you have any idea how long
12 Detyens has prior to this incident restrained davit
13 arms with this wire rope and Crosby clamps method?

14 A. I don't know for how long. I can tell
15 you I've been here for 23 years and it's the way
16 that it's been done since I've been here.

17 Q. Okay. All right. And has any customer
18 ever in your 23 years in the past objected to the
19 way it was done?

20 A. No, sir.

21 Q. Okay. And do you know how it's done or
22 how it was done at other shipyards?

23 A. I do not know. It's the only shipyard
24 I ever worked in.

25 Q. Okay. Fair enough. I just have to

1 look through my notes if you don't mind. Again in
2 Exhibit 3 in Section 7.8. Exhibit 3 is the repair
3 spec. I think you have it right there.

4 A. Okay.

5 Q. If you'd turn to the second page.

6 A. Yep.

7 Q. Section 7.8. Present davits for
8 inspection by the vessel's chief mate. And you
9 testified that would also typically be attended by
10 the port engineer?

11 A. That's correct.

12 Q. And probably by the MSC rep?

13 A. That's correct.

14 Q. I just want to clarify. That would be
15 the finished work, correct?

16 A. Usually --

17 MR. YOUNG: Let me object to the form
18 of that.

19 BY MR. GILSENAN:

20 Q. You can answer.

21 A. We -- there's usually multiple
22 checkpoints through the first -- the customer, the
23 ship wants to know what repairs need to be done and
24 we go over that. And then we do painting, repairs,
25 and we usually have checkpoints for that. And then

1 at the end we do weight tests, we do checkpoints
2 for that. And then when the boats are all stowed
3 and done and the chief mate and the Crowley rep
4 accepts the boat finished.

5 Q. Okay. So it's done in stages?

6 A. Yes, sir.

7 Q. Kind of like if you're building a
8 house, the building inspector comes out and looks
9 at the plumbing, looks at the electrical, looks at
10 the foundation like in stages?

11 A. That's correct.

12 Q. Okay. So 7.8 doesn't mean that the
13 chief mate is actually supervising the work as it's
14 going on day-to-day?

15 A. That's correct.

16 Q. All right. Regarding -- I can't seem
17 to put my hand on it. It was a page marked DSI 14.
18 That was the page number. This was the repair
19 contract. I believe that's Exhibit 2. If you look
20 at Section 3 A I, I'm paraphrasing, the owner's rep
21 will be present and owners may perform other work
22 outside of the shipyard works, correct?

23 A. That's correct.

24 Q. And you testified that you would expect
25 or you said you were sure owners were conducting

1 other work during the shipyard availability,
2 correct?

3 A. That's correct.

4 Q. Right. And it's typical for the ship's
5 crew to continue routine maintenance and their
6 daily rounds on the ship during this time?

7 A. That's correct.

8 Q. Okay. Do you know specifically if
9 Crowley Government Services had subcontractors on
10 board doing independent work during that time?

11 A. I can't answer specifically for that
12 day or who.

13 Q. Okay. You don't know if there were or
14 were not subs --

15 A. I do not know.

16 Q. -- for Crowley on board? All right.
17 These gravity davits are manufactured by PALFINGER?

18 A. PALFINGER -- I can't answer the --
19 without looking at the tech manual who actually
20 manufactured them, PALFINGER's rep for them.

21 Q. Okay. Regardless of who manufactured
22 the davits, it could have been PALFINGER, it could
23 have been someone else --

24 A. Right.

25 Q. -- but the manufacturer has designated

1 PALFINGER --

2 A. That's correct.

3 Q. -- as the OEM rep?

4 A. That's correct.

5 Q. For that system?

6 A. That's correct.

7 Q. Okay. And it sounded like -- you
8 mentioned Mr. Brown from PALFINGER. He's
9 frequently on the shipyard --

10 A. Yes, sir.

11 Q. -- on vessels? How long has he been
12 around?

13 A. Ten years plus.

14 Q. Okay. And so you would expect
15 Mr. Brown and anyone else from PALFINGER to possess
16 a level of expertise regarding these davits?

17 A. Yes, sir.

18 Q. Okay. Did any -- and you've been --
19 the shipyard and the rigging department has been
20 restraining the davit arms in this same manner with
21 the wire rope and Crosby clamps for the 23 years
22 you've been here?

23 A. Yes, sir.

24 Q. All right. Has a PALFINGER rep to your
25 knowledge ever objected to that manner of restraint

1 of the davit arms?

2 A. No, sir. Not to my knowledge.

3 Q. Okay. And certainly in your role as
4 project manager, if a PALFINGER representative
5 would object to the method of restraining the davit
6 arm, that objection could find its way to your desk
7 at some point?

8 A. Yes, sir.

9 Q. Because it could result in a change
10 order, in a pricing change, to restrain the davit
11 in a different way?

12 A. It could.

13 Q. Yeah. Okay. But to your knowledge,
14 PALFINGER has never objected to this means of
15 restraint of the davit arms?

16 A. Not to my knowledge, no, sir.

17 MR. GILSENAN: All right. I don't have
18 anything further. Thank you very much.

19 THE WITNESS: You're welcome.

20 MR. HOOD: For this witness, I mean, he
21 was -- for these topics he's covering for Detyens
22 and HiTrak, I didn't know what exhibit -- I think
23 your notice was just for the shipyard.

24 MR. YOUNG: Yeah.

25 MR. HOOD: It's the same topics for